

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

KATHLEEN D. LIEBERMAN and	§	
MARK J. LIEBERMAN	§	
	§	Civil Action No. 4:23-cv-887-SDJ-BD
v.	§	
	§	
WENDY WALKER and JUSTIN	§	
PAUL	§	

**MEMORANDUM ADOPTING THE REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation (“Report”) of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On August 22, 2024, the Magistrate Judge entered the Report, (Dkt. #40), containing proposed findings of fact and the recommendations that Defendants’ First Motion to Dismiss, (Dkt. #12), be denied, that Plaintiffs’ visitation claim be dismissed without prejudice for lack of subject-matter jurisdiction, and that Defendants’ Second Motion to Dismiss (Dkt. #13) be granted in part and denied in part. Specifically, the Second Motion to Dismiss (Dkt. #13) should be granted to the extent that it seeks dismissal of Plaintiffs’ claim for monetary damages and denied to the extent it requests attorneys’ fees. The Court further recommends that the Plaintiffs’ Motion for Summary Judgment (Dkt. #23) be denied as moot.


No Party filed objections to the Report. Having assessed the Report and the record in this case, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is therefore **ORDERED** that the First Motion to Dismiss (Dkt. #12) is **DENIED**, that Plaintiffs' visitation claim is **DISMISSED WITHOUT PREJUDICE**, and that the Second Motion to Dismiss (Dkt. #13) is **GRANTED IN PART** to the extent that it seeks dismissal of Plaintiffs' claim for monetary damages and **DENIED IN PART** to the extent it requests attorneys' fees.

It is further **ORDERED** that Plaintiffs' claim for monetary damages is **DISMISSED WITHOUT PREJUDICE** and Ms. Lieberman is given leave to file an amended complaint with respect to this claim, rectifying the deficiencies identified in the Report, no later than thirty (30) days after the entry of this order. If Ms. Lieberman fails to timely file an amended complaint, her claim for monetary damages will be **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the Motion for Summary Judgment (Dkt. #23) is **DENIED AS MOOT**.

**So ORDERED and SIGNED this 1st day of November, 2024.**

  
SEAN D. JORDAN  
UNITED STATES DISTRICT JUDGE